



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 8, 1992

Ms. Susan O. Bradshaw
The University of Texas System
Office of General Counsel
201 West Seventh Street
Austin, Texas 78701-2981

OR92-388

Dear Ms. Bradshaw:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16431.

The University of Texas Law School (the law school) received an open records request for, *inter alia*, "the names and permanent addresses of Texas residents who applied to the Law School for admission in the Fall of 1992 and would have been admitted if 75% percent [sic] rather than 55% of the qualified applicants had been granted automatic admission pursuant to the Texas Index." You have requested a decision from this office pursuant to section 7(c) of the Open Records Act as to whether the requested information comes under the protection of common-law privacy.¹ We note that the law school received the open records request on June 3, 1992, but you did not request an open records decision until June 16, 1992. Consequently, you failed to request a decision within the 10 days required by section 7(a) of the act.

Section 7(a) of the act requires a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within 10 days of receiving a

¹ We note that you do not claim the requested information constitutes "student records" or "education records" under sections 3(a)(14) and 14(e), respectively, of the Open Records Act. In Open Records Decision No. 447 (1986), this office determined that these two sections do not apply to high school students who never enrolled at a covered institution. Similarly, the requested records, which pertain to rejected applicants to the law school, do not come under the protection of these exceptions.

request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must demonstrate a compelling interest to withhold the information to overcome this presumption. *See id.* A showing that the requested information comes under the protection of common-law privacy would constitute a compelling reason for not releasing the material. *See* V.T.C.S. art. 6252-17a, § 10(a). However, in this instance, you have not made such a showing nor does this office believe that such a showing could be made.

Section 7(c) of the act provides:

(c) In cases in which a third party's privacy or property interests may be implicated, including but not limited to Subdivisions (1), (4), (10), and (14) of Subsection (a) of Section 3 of this Act, the governmental body may decline to release the information in order to request an attorney general opinion. A person whose interests may be implicated or any other person may submit in writing to the attorney general the person's reasons for withholding or releasing the information. In such cases, the governmental body may, but is not required to, submit its reasons why the information should or should not be withheld.

V.T.C.S. art. 6292-17a, §7(c).

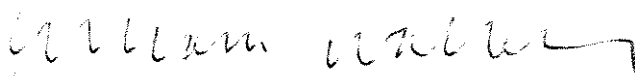
When this office receives a request for an open records decision pursuant to section 7(c), it is our standard practice to solicit from the third parties arguments for the withholding of requested information. In this instance, however, this office has determined that such a solicitation is unwarranted because no legal argument could be made that the release of the information would violate the applicants' privacy.

In Open Records Decision No. 257 (1980) (copy enclosed), this office first established that the names of unsuccessful applicants for public employment did not come under the protection of common-law privacy, which protects highly intimate or embarrassing information that is of no legitimate concern to the public. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Similarly, for the reasons expressed in that open

records decision, this office believes that the information at issue does not meet the test for common-law privacy. Accordingly, the law school must release the requested information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-388.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/RWP/lmm

Ref.: ID# 16431

Enclosures: Open Records Decision No. 257

cc: Mr. Steven W. Smith
3508 Grooms Street
Austin, Texas 78705
(w/o enclosures)